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Attorneys for Defendant Apple Inc.

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

ANDREW COHEN, TIMOTHY HORNICK,
 KALEAH C. ALLEN, NICHOLAS
 CARLSON, GLENN E. JACOBS, MARK
 WEILER, CHAD SMITH, SARAH D.
 SMITH, MATT KOPPIN, SCOTT
 CISCHKE, KRYSTLE FAERYN,
 RODOLFO CABRERA, BRANDY DAVIS,
 WILLIAM ZIDE, ZACHARY
 GOMOLEKOFF, DAVID HEDICKER,
 NANCY MAEKAWA, CATHERINE
 GOODWIN, PAUL COLETTI, KATHLEEN
 BOGGS, KIMBERLY MODESITT,
 KIMBERLY BENJAMIN, MARK KUNZE,
 ARIANA RYAN, NATHAN COOPER,
 BECKY WELLINGTON, M. GAIL
 SUNDELL, VICTOR PERLMAN, and
 JUNE A. HALL, individually and on behalf
 of all others similarly situated,

Plaintiff,

v.

APPLE, INC. and SAMSUNG
 ELECTRONIC AMERICA INC.,

Defendant.

Case No.: 3:19-CV-05322-WHA

**DECLARATION OF JONATHAN S.
 TAM IN SUPPORT OF
 DEFENDANT APPLE INC.'S
 MOTION TO DISMISS**

Date: February 6, 2020

Time: 2:00 P.M.

Judge: Hon. William J. Alsup

Courtroom: 12

1 I, Jonathan S. Tam, declare as follows, pursuant to 28 U.S.C. § 1746:

2 1. I am an attorney at law licensed to practice in California and am Counsel at the law
3 firm Dechert LLP (“Dechert”), counsel of record for Defendant Apple Inc. (“Apple”) in this matter
4 before the Court.

5 2. I submit this declaration in support of Apple’s Motion to Dismiss. Unless otherwise
6 stated, I have personal knowledge of the matters stated herein and would competently testify thereto
7 if called upon as a witness.

8 3. Attached to this declaration as **Exhibit 1** is a true and correct copy of the FCC 19-
9 126 Resolution of Notice of Inquiry, Second Report and Order, Notice of Proposed Rulemaking,
10 and Memorandum Opinion and Order released on December 4, 2019, and available at
11 <https://docs.fcc.gov/public/attachments/FCC-19-126A1.pdf>.

12 4. Attached to this declaration as **Exhibit 2** is a true and correct copy of an FCC Report
13 entitled *Results of Tests on Cell Phone RF Exposure Compliance*, dated December 10, 2019, and
14 available at <https://docs.fcc.gov/public/attachments/DOC-361473A1.pdf>.

15 5. Attached to this declaration as **Exhibit 3** is a true and correct copy of an FCC
16 Guidance Document entitled *Wireless Devices and Health Concerns*, last updated on October 15,
17 2019, and available at [https://www.fcc.gov/sites/default/files/wireless_devices_and_health](https://www.fcc.gov/sites/default/files/wireless_devices_and_health_concerns.pdf)
18 [concerns.pdf](https://www.fcc.gov/sites/default/files/wireless_devices_and_health_concerns.pdf).

19 6. Attached to this declaration as **Exhibit 4** is a true and correct copy of an FDA News
20 Release entitled *Statement from Jeffrey Shuren, M.D., J.D., Director of the FDA’s Center for*
21 *Devices and Radiological Health on the Recent National Toxicology Program Draft Report on*
22 *Radiofrequency Energy Exposure*, dated February 2, 2018, and available at [http://www.fda.gov/](http://www.fda.gov/news-events/press-announcements/statement-jeffrey-shuren-md-jd-director-fdas-center-devices-and-radiological-health-recent-national)
23 [news-events/press-announcements/statement-jeffrey-shuren-md-jd-director-fdas-center-devices-](http://www.fda.gov/news-events/press-announcements/statement-jeffrey-shuren-md-jd-director-fdas-center-devices-and-radiological-health-recent-national)
24 [and-radiological-health-recent-national](http://www.fda.gov/news-events/press-announcements/statement-jeffrey-shuren-md-jd-director-fdas-center-devices-and-radiological-health-recent-national).

25 7. Attached to this declaration as **Exhibit 5** is a true and correct copy of the FCC’s
26 Authorization for iPhone 7 model BCG-E3086A, granted on September 7, 2016, and located at
27 [https://apps.fcc.gov/oetcf/tcb/reports/Tcb731GrantForm.cfm?mode=COPY&RequestTimeout=50](https://apps.fcc.gov/oetcf/tcb/reports/Tcb731GrantForm.cfm?mode=COPY&RequestTimeout=500&tcb_code=&application_id=ZXO2Uozps2QJzweVPrfLZA%3D%3D&fcc_id=BCG-E3086A)
28 [0&tcb_code=&application_id=ZXO2Uozps2QJzweVPrfLZA%3D%3D&fcc_id=BCG-E3086A](https://apps.fcc.gov/oetcf/tcb/reports/Tcb731GrantForm.cfm?mode=COPY&RequestTimeout=500&tcb_code=&application_id=ZXO2Uozps2QJzweVPrfLZA%3D%3D&fcc_id=BCG-E3086A).

8. Attached to this declaration as **Exhibit 6** is a true and correct copy of the FCC's Authorization for iPhone 7 Plus model BCG-E3087A, granted on September 7, 2016, and located at https://apps.fcc.gov/oetcf/tcb/reports/Tcb731GrantForm.cfm?mode=COPY&RequestTimeout=500&tcb_code=&application_id=v7aGXMVrhP7nEksER61yhA%3D%3D&fcc_id=BCG-E3087A.

9. Attached to this declaration as **Exhibit 7** is a true and correct copy of the FCC's Authorization for iPhone 8 model BCG-E3171A, granted on September 12, 2017, and located at https://apps.fcc.gov/oetcf/tcb/reports/Tcb731GrantForm.cfm?mode=COPY&RequestTimeout=500&tcb_code=&application_id=m1hXAgGjUxkxOyWgJffRPw%3D%3D&fcc_id=BCG-E3171A.

10. Attached to this declaration as **Exhibit 8** is a true and correct copy of an FCC Office of Engineering and Technology Laboratory Division Publication Number 447498, entitled *RF Exposure Procedures and Equipment Authorization Policies for Mobile and Portable Devices*, dated October 23, 2015, and available at https://apps.fcc.gov/kdb/GetAttachment.html?id=f8IQgJxTTL5y0oRi0cpAuA%3D%3D&desc=447498%20D01%20General%20RF%20Exposure%20Guidance%20v06&tracking_number=20676.

11. Attached to this declaration as **Exhibit 9** is a true and correct copy of an FCC Guidance Document entitled *Specific Absorption Rate (SAR) For Cell Phones: What It Means For You*, last updated/reviewed on October 15, 2019, and available at https://www.fcc.gov/sites/default/files/sar_for_cell_phones_-_what_it_means_for_you.pdf.

12. Attached to this declaration as **Exhibit 10** is a true and correct copy of the FCC 13-39 First Report and Order, Further Notice of Proposed Rule Making and Notice of Inquiry, released on March 29, 2013, and available at <https://docs.fcc.gov/public/attachments/FCC-13-39A1.pdf>.

13. Attached to this declaration as **Exhibit 11** is a true and correct copy of the FCC 97-303 Second Memorandum Opinion and Order and Notice of Proposed Rulemaking in *In re Guidelines for Evaluating the Environmental Effects*, released on August 25, 1997, and available at https://transition.fcc.gov/Bureaus/Engineering_Technology/Orders/1997/fcc97303.pdf.

14. Attached to this declaration as **Exhibit 12** is a true and correct copy of the FCC 96-326 Report and Order in *In re Guidelines for Evaluating the Environmental Effects of Radio-frequency Radiation*, released on August 1, 1996, and available at <https://transition.fcc.gov/>

1 [Bureaus/Engineering Technology/Orders/1996/fcc96326.pdf](https://www.apple.com/legal/warranty/products/warranty-us.html).

2 15. Attached to this declaration as **Exhibits 13(a-d)** are true and correct copies of the
3 One (1) Year Limited Warranty, for Apple branded products (“Limited Warranty”), available at
4 <https://www.apple.com/legal/warranty/products/warranty-us.html>. **Exhibit 13(a)** is a true and
5 correct copy of the Limited Warranty effective from December 6, 2014 through September 9, 2015.
6 **Exhibit 13(b)** is a true and correct copy of the Limited Warranty effective from September 9, 2015
7 through February 3, 2016. **Exhibit 13(c)** is a true and correct copy of the Limited Warranty
8 effective from February 3, 2016 to July 11, 2018. **Exhibit 13(d)** is a true and correct copy of the
9 Limited Warranty effective from July 11, 2018 to present.

10 I declare under penalty of perjury under the laws of the United States of America that the
11 foregoing is true and correct.

12 Executed on January 2, 2020.

13 /s/ Jonathan S. Tam
14 Jonathan S. Tam
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